



CITY OF MORGAN HILL

COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL, CALIFORNIA 95037

**COUNCIL MEMBERS**

Steve Tate, Mayor  
Greg Sellers, Mayor Pro Tempore  
Larry Carr, Council Member  
Marby Lee, Council Member  
Marilyn Librers, Council Member

**WEDNESDAY, JUNE 24, 2009**

**AGENDA**

**CITY COUNCIL SPECIAL MEETING**

**7:00 P.M.**

*A Special Meeting of the City Council is called at 7:00 p.m. for  
the Purpose of Conducting City Business.*

Steve Tate, Mayor

**CALL TO ORDER**

(Mayor Tate)

**ROLL CALL ATTENDANCE**

(City Clerk Torrez)

**DECLARATION OF POSTING OF AGENDA**

Per Government Code 54954.2

(City Clerk Torrez)

**OPPORTUNITY FOR PUBLIC COMMENT**

**PUBLIC COMMENT**

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda )

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME  
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND  
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK. THE CITY CLERK WILL  
FORWARD CORRESPONDENCE TO THE CITY COUNCIL.**

***City Council Action***

1. **EXCEPTION TO LOSS OF BUILDING ALLOTMENT AWARDED TO APPLICATION MC-05-12:**

**DEPOT-GRANARY**

**Recommended Action(s)**

- 1) **Adopt** Resolution approving a 24-month extension of time for commencement of construction.

**FUTURE COUNCIL AGENCY-INITIATED AGENDA ITEMS:**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

**ADJOURNMENT**

### **NOTICE**

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act that are distributed to a majority of the legislative body less than 72 hours prior to an open session, will be made available for public inspection at the Office of the City Clerk at Morgan Hill City Hall located at 17555 Peak Avenue, Morgan Hill, CA, 95037 at the same time that the public records are distributed or made available to the legislative body. (Pursuant to Government Code 54957.5)

### **PUBLIC COMMENTS ON ITEMS *NOT* APPEARING ON AGENDA**

Following the opening of the City Council Meeting, the public may present comments on items *NOT* appearing on the agenda that are within the Council's jurisdiction. Should your comments require Council action, your request will be placed on the next appropriate agenda. No Council discussion or action may be taken until your item appears on a future agenda. You may contact the City Clerk for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your presentation to three (3) minutes.

### **PUBLIC COMMENTS ON ITEMS APPEARING ON AGENDA**

The Morgan Hill City Council welcomes comments from all individuals on any agenda item being considered by the City Council. Please complete a Speaker Card and present it to the City Clerk. This will assist the Council Members in hearing your comments at the appropriate time. Speaker cards are available on the table in the foyer of the Council Chambers. In accordance with Government Code 54953.3 it is not a requirement to fill out a speaker card in order to speak to the Council. However, it is very helpful to the Council if speaker cards are submitted. As your name is called by the Mayor, please walk to the podium and speak directly into the microphone. Clearly state your name and address and then proceed to comment on the agenda item. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the City Council are limited to three minutes. We appreciate your cooperation.

### **NOTICE**

#### **AMERICANS WITH DISABILITIES ACT (ADA)**

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City. If you need special assistance to access the meeting room or to otherwise participate at this meeting, including auxiliary aids or services, please contact the Office of the City Clerk at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation. Please make your request at least 48 hours prior to the meeting to enable staff to implement reasonable arrangements to assure accessibility to the meeting.

If assistance is needed regarding any item appearing on the City Council agenda, please contact the Office of the City Clerk at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation.

### **NOTICE**

Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the Public Hearing on these matters.

### **NOTICE**

The time within which judicial review must be sought of the action by the City Council which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** June 24, 2009

### **EXCEPTION TO LOSS OF BUILDING ALLOTMENT AWARDED TO APPLICATION MC-05-12: DEPOT – GRANARY**

#### **RECOMMENDED ACTION:**

Adopt Resolution approving a 24-month extension of time for commencement of construction.

**EXECUTIVE SUMMARY:** In March 2006, the applicant, Granary LLC, was awarded a 12 dwelling unit building allotment in the Residential Development Control System (RDCS) Downtown Competition under the Small Vertical Mixed Use category. The project was awarded 6 building allotments for Fiscal Year 2006-07 and 6 building allotments for Fiscal Year 2007-08. In November 2006, the voters approved Measure F. Measure F established a separate set-aside of 100 units to be allocated to projects in the Downtown. Measure F also allowed this project and other projects that competed in the March 2006 Downtown RDCS competition to advance the timing of their fiscal year building allotments so that projects can be completed sooner. However, Measure F did not eliminate the deadline to commence construction under a project's fiscal year building allotment.

The proposed project is a vertical mixed use development to be located on the east side of Depot Street. In June 2007, the City Council approved a two year extension of time for the project's six, Fiscal Year 2006-07 building allotments and a one-year extension on the six, Fiscal Year 2007-08 allotments, extending the deadline to commence construction on all 12 allotments to June 30, 2009. The applicant would like to preserve the current building allotment and also plans to increase the number of dwellings in the project. This will be possible when higher residential densities are adopted for the entire Downtown. To provide sufficient lead time to design a revised project with more units, staff is recommending a 24-month extension of time for the project's building allotments. The request would extend the deadline to commence construction on the project's 12 building allotments to June 30, 2011. The extension will allow time for the applicant to revise the project and receive additional allotments following adoption of the Downtown Specific Plan.

#### **FISCAL/RESOURCE IMPACT:**

This activity is within the range of planning activities in the work program and will not affect the progress on other work plan items. No budget adjustment required.

Agenda Item #

Prepared By:

*[Signature]*

Senior Planner

Approved By:

*[Signature]*

Community  
Development Director

Submitted By:

*[Signature]*

City Manager

## **RESOLUTION NO.**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A TWO YEAR EXTENSION OF TIME ON THE RESIDENTIAL BUILDING ALLOTMENT FOR APPLICATION MC-05- 12: DEPOT -GRANARY**

**WHEREAS**, the Planning Commission pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded a building allotment for 12 dwelling units for application MC-05-12: Depot – Granary for Fiscal Year 2006-07 (6 units) and Fiscal Year 2007-08 (6 units); and

**WHEREAS**, on June 13, 2007, the City Council adopted Council Resolution No. 6101, approving an exception to loss of building allotment and approval of a one-year and two-year extension of time on the residential building allotments, extending the deadline to commence construction on all 12 building allotments to June 30, 2009; and

**WHEREAS**, Municipal Code Section 18.78.125 G, allows an exception to the loss of allotment be granted if the cause for the lack of commencement is not the result of developer inaction or due to circumstances outside of the developer's control; and

**WHEREAS**, the housing and financial markets are in crisis and the project with the current building allotment is not economically feasible; and

**WHEREAS**, a 24-month extension of time for the project's 12 building allotments is currently requested to allow the project to receive a supplemental building allotment to increase the project density and the delay is due to expected time needed to adopt the Downtown Specific Plan and associated environmental review and the Zoning Amendments required to allow the increased density; and

**WHEREAS**, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL  
DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** Based on the findings required in Section 18.78.040 (E) of the Municipal Code, the City Council hereby approves a 24-month extension of time on the project's building allotments (six, FY 2006-07 and six, FY 2007-08), extending the time for commencement of construction of the 12 Downtown Measure C allotments to June 30, 2011.

**PASSED AND ADOPTED THIS 24th DAY OF JUNE 2009, AT A REGULAR MEETING  
OF THE CITY COUNCIL BY THE FOLLOWING VOTE:**

RESOLUTION NO.  
PAGE 2

**AYES: COUNCILMEMBERS:**

**NOES: COUNCILMEMBERS:**

**ABSTAIN: COUNCILMEMBERS:**

**ABSENT: COUNCILMEMBERS:**

**ATTEST:**

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**IRMA TORREZ**  
**City Clerk**